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NOMINATION OF ALLAN VICTOR BURMAN

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

NOMINATION OF ALLAN VICTOR BURMAN TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY

FEBRUARY 22, 1990

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NOMINATION OF ALLAN VICTOR BURMAN

THURSDAY, FEBRUARY 22, 1990

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Carl Levin, presiding.

Present: Senators Glenn, Levin, and Bingaman.

Committee staff assigned: Brian Dettelbach, Stephen Ryan and Jack Sparks, Staff of Senator Glenn; Susanne Marshall, Staff of Senator Roth; and Linda Gustitus and Peter Levine, Staff of Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. The Committee will come to order.

Today we are here relative to the nomination of Dr. Allan Burman. We welcome you, Dr. Burman.

We are here to consider your nomination to be Administrator of the Office of Federal Procurement Policy, and first let me congratulate you on your nomination. We welcome you here, your wife, Chris. Any other family members that might be here to see if we can get you nervous?

Dr. BURMAN. My daughter would have liked to have been here, but she is in school in Connecticut. She is a sophomore at Wesleyan, and we discussed that she had four classes today and tomorrow. And given the cost of education these days, we decided we ought to let her stay up in Connecticut, but I did promise her that I would at least mention her name so that we could get her into the hearing record, and I think now I have satisfied that.

Senator LEVIN. You haven't mentioned her name, though. [Laughter.]

Dr. BURMAN. Zoe.

Senator LEVIN. So what is her name?

Dr. BURMAN. Zoe.

Senator LEVIN. Zoe?

Dr. BURMAN. Yes, that is right. Now we have mentioned it a few times.

Senator LEVIN. Right. That is the second gal I have known with the name of Zoe, and the first one was a very fond favorite of my daughter, too, from college days. So we will note her absence.

Dr. BURMAN. Thank you.

Senator LEVIN. The Office of Federal Procurement Policy was created in 1974 with high expectations. At that time, many in the

Congress felt that the increasingly complex procurement process lacked effective management control. It was widely hoped that the new office would provide needed direction and coordination of the process.

Unfortunately, I am afraid that OFPP has failed to achieve the leadership role that Congress envisioned for it when the office was created. For example, in 1987, a GAO report found that OFPP lacked strong management and leadership, received inadequate support from OMB, and did not have sufficient staff resources to do its job. These problems are exemplified by the brief tenure and frequent vacancies in the Administrator's position, a post that has been unoccupied for 3 of the last 5 years.

In the last Congress, we attempted to address these problems by strengthening OFPP, giving it new powers and a permanent authorization, and raising its Administrator to an Executive Level 3 position. These changes give the Administrator substantial new visibility, authority, and clout within the executive branch. It puts him on a par with other Level 3 officials, such as the Solicitor General of the United States, the administrators of the Small Business Administration and the General Services Administration, and the chairpersons of the Federal Trade Commission, the Federal Energy Regulatory Commission, and the Federal Communications Commission.

But what we expect in return is leadership. We expect innovative ideas and new approaches. OFPP was not created to act as the least common denominator in Federal procurement, reacting to proposals put forward by others. It was created to coordinate and direct Federal procurement policy. If you are confirmed as Administrator of OFPP, Dr. Burman, this is what we will expect from you.

On a personal note, I have had the pleasure of reviewing your resume, and I am impressed with your commitment to public service. Based on your academic and professional performance, you obviously could have reaped significant monetary rewards in the private sector, but you have chosen to dedicate yourself over the past 20 years to public service.

Dr. Burman began his Government career as an OMB management intern and budget examiner back in 1971. I'm amazed that wasn't the end of your Government career. [Laughter.]

And he has been with the Federal Government ever since. He was summa cum laude graduate in history from Wesleyan University—did I hear that university mentioned here earlier?

Dr. BURMAN. That is right. It is now becoming a family tradition.

Senator LEVIN. And went on to receive a master's degree from Harvard and a doctorate from George Washington University, and I commend you on your dedication to serving the public. I am pleased that we have you as a role model, frankly, for young people in college that make important career choices. Government is an honorable service; public service is an honorable profession; and sometimes there are those even in public service, I am afraid, who have been elected to office who knock some of our public servants, make a career out of it. But it is, indeed, honorable, and you have helped to make it so.

The Chairman of the Governmental Affairs Committee, Senator Glenn, has asked that I state for the record, pursuant to Committee rules, the steps the Committee has taken on this nomination. Committee rules mandate that an inquiry be conducted into the experience, qualifications, suitability, and integrity of nominees. The Committee has received from the nominee financial statements as well as detailed information on the nominee's educational background, employment record, and professional achievements.

In addition, the nominee has responded in writing to prehearing questions submitted by the Committee concerning the duties and responsibilities of the position to which he has been nominated. Copies of the biographical information and prehearing responses will be placed in the record as part of this hearing and are available upon request. The financial statements of the nominee are available for inspection by the public in the Committee office.

Committee investigators have reviewed the nominee's biographical and financial information. In addition, staff has examined the financial disclosure reports submitted by the Office of Government Ethics and the respective agency ethics officer to ensure that no conflicts of interest are present. The Chairman of the Committee, Senator Glenn, as well as our Ranking Member, Senator Roth, have reviewed the FBI background investigation report on the nominee. And, finally, the nominee has been interviewed in private by designated Committee staff members prior to this hearing.

Committee rules further require that the nominee be under oath while testifying on all matters relating to his suitability for office, including the policies and programs which he will pursue while in that position.

So, Dr. Burman, please stand up and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Dr. BURMAN. I do.

Senator LEVIN. Before we ask you if you have a statement, Dr. Burman, there is a statement from Senator Lieberman who wanted to be here to introduce you but could not make it. I know the number of things that he is involved in this afternoon personally because I should be there with him. But I do know that he has got a very strong statement of endorsement for you which will be made part of the record.

[The statement of Senator Lieberman follows:]

OPENING STATEMENT OF SENATOR LIEBERMAN

Mr. Chairman, I am pleased to be here today to introduce Dr. Allan Burman, a native of Connecticut, to this Committee. Dr. Burman has been nominated for the position of Administrator of Federal Procurement Policy at the Office of Management and Budget, a position for which he is admirably well qualified.

Dr. Burman has dedicated most of his life to public service, including nearly twenty years of service in the federal government. He graduated summa cum laude from Wesleyan University in Connecticut, studied political science at the University of Bordeaux in France on a Fullbright Grant, received his Masters Degree from Harvard and his Ph.D. from George Washington University.

He entered public service in 1968, teaching history in Westport, Connecticut's public school system, and served as a management intern at the Department of Defense in 1971. He has since served the federal government in a variety of positions, most of them within OMB. His positions have included: Budget Examiner with the Navy Branch of OMB's National Security Division; Special Assistant to the Director

of Defense Education, in the Office of the Secretary of Defense; Coordinator of Research and Development Programs, Air Force branch of OMB's National Security Division; Chief of the Air Force Branch of OMB's National Security Division; and Deputy Administrator of the Office of Federal Procurement Policy at OMB. Today, Dr. Burman serves as the Acting Administrator for Federal Procurement Policy, the position for which he has now been nominated. In addition to his federal service, Dr. Burman has been a Federal Executive Fellow at the Brookings Institution, and co-authored a publication explaining the new federal procurement integrity rules.

Without a doubt, Dr. Burman's background and experience render him uniquely qualified to administer OMB's procurement policy. As you know, Mr. Chairman, few positions in government are of greater importance today. In an era of budget deficits and shrinking federal resources, it is imperative that the federal government spend its procurement dollars efficiently and wisely. In recent years, federal spending on goods, services and research has reached nearly $200 billion a year. There is plainly room for improvements, ranging from increased use of commercially available products, to upgrading the quality of the government's acquisition personnel, to improving oversight of procurement procedures.

These are difficult and important issues, but I am confident that Dr. Burman's strong academic and professional background, and his years of loyal and dedicated public service will help him succeed. I thank you, Mr. Chairman, for letting me speak on Dr. Burman's behalf. I recommend that the Committee act on his nomination quickly and favorably.

Senator LEVIN. I know Congresswoman Nancy Johnson also has a statement introducing you that will be made part of the record.

[The statement of Congresswoman Johnson follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 21, 1990.

HON. JOHN GLENN,
Chairman, Committee on Governmental Affairs, 340 Dirksen Senate Office Building.

DEAR MR. CHAIRMAN: Since I will not be in Washington on Thursday, February 22, for your Committee's hearing regarding the nomination of Allan V. Burman to the office of Administrator, Office of Federal Procurement Policy at OMB, I wish to take this opportunity to endorse my constitutent for the record.

Dr. Burman hails from the City of Bristol, Connecticut, and has served in the federal government for nearly twenty years. He has dedicated his career, the last 13 years of which have been to OMB, to efficient review of federal programs within his purview and was recognized for his efforts with a Meritorious Executive award from the President in 1985 and other honors throughout his career. In addition, Dr. Burman has pursued difficult academic goals throughout his life which efforts have been rewarded most recently in 1983 when he completed work on his PH.D.

I commend Dr. Burman's lifetime achievements to you and your colleagues and am expecially pleased to note that they began in the Sixth District of Connectuicut.

With best wishes,

Very truly yours,

NANCY L. JOHNSON,
Member of Congress.

Senator LEVIN. Senator Roth I believe has an opening statement which we will make now part of the record.

[The statement of Senator Roth follows:]

OPENING STATEMENT OF SENATOR ROTH

I'd like to join in welcoming Dr. Burman before the Committee today. He's obviously familiar with the office to which he has been nominated—having served as the Deputy since December of 1986 and then Acting Administrator since May of 1988. He is well known to this Committee for the active role he played during the protracted negotiations on legislation to reauthorize OFPP in 1988. It is particularly gratifying to see the professionalism of a career civil servant recognized as evi-

denced by the support of President Bush in nominating you to this important position.

While you have been serving in an Acting capacity for some time, it is my understanding that your power and influence will be greatly strengthened upon confirmation—in light of gaining privileges at the White House Mess. You have my full support to do whatever it takes to promote the status of your office.

I guess you could say that wasteful spending in government procurement, particularly defense procurement, has long been a "pet peeve" of mine. The cost to the taxpayers due to inefficient, ineffective and inadequate program management is anybody's guess—but whatever figure is attached to it, the bottom line is disgraceful. Because of that, I would like to take this opportunity to emphasize that the Congress will be looking to the Administrator of OFPP to take not only an active, but an aggressive, leadership role in establishing federal procurement policy—to coordinate and streamline the process to put an end to wasteful spending.

I appreciate having your views as expressed in the responses to the pre-hearing questions. And I look forward to hearing more from you regarding proposed legislation dealing with commercial product purchasing and the remedies you may suggest to address Senator Pryor's "pet peeve" with the proliferation of government consultants. We also have to resolve the objections raised with the procurement integrity law as currently written. These are just a few immediate concerns. I know these and several other issues will be addressed during the hearing today, so I won't delay any further.

In closing, I congratulate you, Dr. Burman, on your nomination and success to date. I do anticipate your nomination being favorably reported by the Committee in the near future, and I will urge full Senate consideration as soon as possible.

Thank you.

Senator LEVIN. Senator Glenn is going to attempt to be here and, if so, will make his statement at that time. If not, we will put his statement in the record at this time.

Dr. Burman, do you have a prepared statement, or would you like to make an oral statement?

TESTIMONY OF ALLAN VICTOR BURMAN, PH.D., NOMINEE TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY [1]

Dr. BURMAN. I do have a prepared statement that, if I may, I would just like to submit for the record and make just a few remarks.

Senator LEVIN. You have already taken a very strong first step toward confirmation. [Laughter.]

Dr. BURMAN. I was well advised on that. Thank you.

I would like to thank Senator Lieberman and Congresswoman Johnson for their remarks on my behalf. I very much appreciate that. I would only like to say that I am delighted that Dick Darman recommended me and the President has nominated me for this important position. And if confirmed, I certainly would do the best I could to carry out the responsibilities of this office.

That constitutes my remarks.

Senator LEVIN. Do you like "Dr. Burman" or "Mr. Burman"?

Dr. BURMAN. Either.

Senator LEVIN. All right.

Dr. BURMAN. Al Burman, ordinarily.

Senator LEVIN. Dr. Burman, let me ask you some mandatory questions. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of Administrator of OFPP?

Dr. BURMAN. I do not.

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[1] See p. 19 for Dr. Burman's prepared statement.

Senator LEVIN. Is there anything that you are aware of in your background which might present a conflict of interest with the duties of your office?

Dr. BURMAN. No.

Senator LEVIN. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Dr. BURMAN. I do.

Senator LEVIN. Senator Glenn?

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman GLENN. Yes, let me just make a short opening statement here and ask that the whole statement be included in the record.

Dr. Burman, we are glad to have you here. I won't go through everything, but just let me say that we on this Committee back OFPP in the strongest possible way. I don't think some people in Government have realized that. In my view, the OFPP Administrator must provide the Director of OMB and the President with an independent voice on procurement policy as well as overseeing the development of the executive branch procurement systems.

Under the enabling statute created by this Committee, OFPP has broad authority to accomplish these very, very major responsibilities. For that reason, I think we almost could judge the way you are doing your job and say that you won't be doing your job well unless if, on occasion, you do not find yourself taking strong positions in opposition to some of the people who are perhaps a little more entrenched and feel that there is a conventional wisdom associated with the major procurement agencies—Defense Department, General Services, NASA—which share with you authority for the overall procurement system.

I have been deeply troubled by recent events where I believe leadership from OFPP, had the Administration heeded it, might have averted some very serious problems with the procurement system. In November of 1989, we were initially told the Administration was to repeal the key sections of the procurement integrity statute included in the 1988 OFPP reauthorization. Subsequently, the Administration took the position favoring a suspension of these provisions.

I tell you, this took us by surprise, the agencies and, I understand, your office by surprise as well, There wasn't any discussion or very little discussion or explanation with or among interested parties, nor did the Administration consider pursuing any proposed revisions through the normal Committee legislative process.

It seems extraordinary to me to seek complete repeal of the law which prohibits Government employees from accepting bribes and gratuities from contractors hoping to obtain privileged source selection or other proprietary information. I strongly feel it important for the Government to have the broadest set of remedies, including criminal, civil, administrative and contractual, in such situations as the statute provides. In light of the continued series of criminal prosecutions in the "Ill Wind" cases which demonstrates systemic assaults on the integrity of our procurement systems, I find the ad-

ministration's position—I will be mild in my words—ill-conceived, ill-defined and a just plain wrong hit. I feel that strongly about it. Outside of that, I like it, I guess. [Laughter.]

But it is my hope that this unfortunate scenario will not reoccur on your watch. This Committee expects you, as OFPP Administrator, to speak for the Administration and OMB on procurement policy issues and, as such, I think you will be held accountable.

And I would add this, too. If at any time you are not a player in the formation of such a position, I personally want to know about it, and other members of this Committee would, too. The other two here today have taken the lead in some of these procurement matters—Senator Levin and Senator Bingaman—and this Committee strongly believes in the mission of OFPP. As I said, anything we can do to ensure or augment your effectiveness and OFPP's effectiveness, will be certainly duly considered.

I look forward to working with you on these things. We think you are going into a very, very important position. All you have to do is read the front page of the Washington Post and the New York Times of this morning to look at our procurement policies, and I would add this, too. Tomorrow morning we are having a hearing on the GAO's financial management investigation of the Air Force. The Air Force was selected for investigation by GAO as the start of a review on all the Services individually, because it was thought the Air Force was in the best shape of any of the Services.

So you have your work cut out for you, and we look forward to working with you on these matters.

[The prepared statement of Chairman Glenn follows:]

PREPARED STATEMENT OF CHAIRMAN GLENN

I am pleased that the Committee on Governmental Affairs is meeting today to consider the nomination of Dr. Allan Burman to serve as Administrator for Federal Procurement Policy within the Office of Management and Budget (OMB). I also wish to thank my good friend and colleague, Senator Levin, for chairing this Full Committee hearing.

Dr. Burman has amassed impressive academic credentials coupled with a long and distinguished record of government service. He will undoubtedly have to summon all of his ability and experience in leading OFPP at this crucial time, when so much uncertainty and instability exists over government contracting practices, regulations, and policies.

In my view, the OFPP Administrator must provide the Director of OMB and the President with an independent voice on procurement policy, as well as overseeing the development of executive branch procurement systems. Under the enabling statute created by this Committee, OFPP has broad authority to accomplish these heady responsibilities. For that reason, Dr. Burman, I would say that you will not be doing your job properly if, on occasion, you do not find yourself taking strong positions against the "conventional wisdom" of major procurement agencies, particularly the Defense Department (DoD), the General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA), who share with you authority for the overall procurement system.

I am deeply troubled by recent events where I believe leadership from OFPP, had the Administration heeded it, might have averted serious problems for the procurement system. In November of 1989, for example, we were initially told that the Administration wished to repeal the key sections of the procurement integrity statute included in the 1988 OFPP Reauthorization. Subsequently, the Administration took the position favoring a suspension of these provisions. This position took the Congress, the agencies and, as I understand it, your office by surprise.

Throughout it all, there was very little discussion or explanation with or among interested parties. Nor did the Administration consider pursuing any proposed revisions thorough the normal Committee legislative process.

To me, it seems extraordinary to seek complete repeal of a law which prohibits government employees accepting bribes and gratuities from contractors hoping to obtain privileged source selection or other proprietary information. I strongly feel it important for the government to have the broadest set of remedies, including criminal, civil, administrative and contractural remedies in such situations, as the statute provides. In light of the continued series of criminal prosecutions in the Ill-Wind cases, which demonstrate systemic assaults on the integrity of our procurement systems, I find the Administration's position at best ill-conceived, ill-defined, and wrongheaded.

It is my hope that this unfortunate scenario will not reoccur on your watch. For this Committee expects you, Dr. Burman, as OFPP Administrator, to speak for the Administration and OMB on procurement policy issues and, as such, you will be held accountable. If, at any time, you are not a player in the formulation of such a position, I personally want to know. This Committee strongly believes in the mission of OFPP and anything we can do to ensure or augment its effectiveness will duly be considered.

With these thoughts in mind, I look forward to working with you on the many critical matters confronting OFPP today.

Senator LEVIN. Thank you, Senator Glenn.

Senator BINGAMAN. Do you have an opening statement?

OPENING STATEMENT OF SENATOR BINGAMAN

Senator BINGAMAN. I have a short one that I will just put in the record, Mr. Chairman.

Let me just say I appreciate the chance to be here. I do have a couple of questions, when we get to the questioning part, both about this procurement integrity issue which all 3 of us have worked a lot on in recent years; and, of course, also about the way that this office, OFPP, interacts with the Department of Defense and with OIRA. We have had a couple of hearings in the Governmental Affairs Committee today and yesterday on OIRA, and I would just like to carve out those. But I will wait for those questions until you are through with your statement and the others have a chance to ask their questions.

Thank you.

[The prepared statement of Senator Bingaman follows:]

PREPARED STATEMENT OF SENATOR BINGAMAN

Mr. Chairman, I congratulate Mr. Burman on his nomination to be Administrator of the Office of Federal Procurement Policy. I am pleased that the President has recognized his distinguished performance as a career public servant by nominating him for this vital position.

The OFPP Administrator has one of the most difficult jobs in government. The headlines in the procurement arena often go to the investigators and prosecutors who ferret out fraud, waste, and abuse—and certainly, they perform a vital role. But such activities cannot alone ensure that our procurement decisions are wise, efficient, and economical. The responsibility for making the system work rests with those who must develop the rules governing the procurement process. This is most delicate task, requiring sensitivity to the requirements of the procuring agencies, the concerns of industry, and the public interest.

Under the OFPP Act, the basic responsibility for drafting rules rests with the three major procuring agencies—the Department of Defense, NASA, and GSA, while the responsibility for executive branch oversight is given to the Federal Acquisition Regulatory Council, which consists of representatives of those agencies and the OFPP Administrator.

As Chairman of the Subcommittee on Government Information and Regulation and this Committee, and Chairman of the Subcommittee on Defense Industry and Technology of the Armed Services Committee, I am keenly aware of the manner in which overly burdensome and complex rules can undermine the effectiveness of our procurement system. The Administrator of OFPP must balance two often conflicting goals—the goal of ensuring that our rules discourage fraud and abuse and the need

for sufficient flexibility to permit innovation and efficiency in the procurement process.

As Acting Administrator, Mr. Burman has demonstrated sensitivity to the importance of achieving the proper balance between these goals, and has recognized the key role that the procuring agencies must play in the development and oversight of procurement regulations. I congratulate him on his nomination, and look forward to working with him in the future.

Senator LEVIN. Thank you, Senator.

Dr. Burman, first let me ask you this: The Administrator of OFPP is charged with providing overall direction and leadership in the development of Government-wide procurement policy. There are obviously many instances where agencies will differ with each other and may want to go their own ways. If you are confirmed as Administrator, how will you reconcile the differences between agencies and ensure that we have a single, coherent set of Government-wide procurement policies?

Dr. BURMAN. As you know, I have been Deputy Administrator and Acting Administrator for some time now, so we have had the opportunity to deal with the agencies on those kinds of problems already. One of the issues, for example, that I might mention was a rule that was being put together with regard to the payment of liquidated damages if firms hadn't done an adequate job of subcontracting with small businesses and small disadvantaged businesses. Then there was to be, in effect, a liquidated damages assessment to be made against that firm. That was a very controversial rule. We had very wide differences of opinion between the Defense Department, for example, and the General Services Administration with regard to what the level of penalty ought to be. They were unable to resolve those differences. We basically did, and there are authorities in our act that allow us to do that.

We made a judgment that if the violation was willful or intentional that the penalty to be applied would be a 100 percent penalty of the amount that was supposed to have been contracted with these businesses. So there is a case where we tried to reconcile. The agencies had major disagreements, and then made the judgment ourselves.

I think that the way that this came out was a response that was fair to industry, fair to Government as well, and met the concerns of the Congress.

Senator LEVIN. You are willing to use that power, then, to——

Dr. BURMAN. We have used that power, and I certainly would be more than willing to use it again if the case should arise. That was, by the way, the first time that that power had been used in the office.

Senator LEVIN. A number of us have been working for several years to encourage the Department of Defense to purchase more commercial and off-the-shelf products, and 4 of us have now introduced a bill to extend the off-the-shelf purchase provisions to civilian agencies. Do you agree that the purchase of existing commercial and off-the-shelf products is an important approach to saving money?

Dr. BURMAN. I do very much.

Senator LEVIN. What do you see as the most significant impediments to increased Government use of those products?

Dr. BURMAN. Well, there are a number of impediments, but it seems to me the continuing problem is one of over-specification where the Government tries to put just too many detailed specifications out, to the point where firms, particularly small firms, are unwilling to try to change their production lines to meet those needs. As a result, I believe the Government loses lots of suppliers, and I think it costs the Government more for what it gets. And I'm not sure that the Government gets the right kind of quality either.

I think we need to do something about that issue in particular. There are others as well, but I would say that is a primary one where more effort is needed. I know that you have done things to look at contract clauses, to try to get them out of contracts where they are not necessary. In the commercial area, I think that makes a great deal of sense, too, to give people more training, to make sure they understand that we are looking to try to get the best deal for the Government, but not to take forever to buy things.

We have to be concerned somewhat, it seems to me, that we don't set up a system on the other hand that just favors a few buyers. We clearly want to make sure that whatever system we are proposing is as competitive as possible.

Senator LEVIN. Will you work with us, our staffs, to put together a good workable provision to encourage the purchase of such products by civilian agencies?

Dr. BURMAN. I certainly will, and I am familiar with S. 1957, which is the bill that you have proposed.

We have some alternative approaches, additional approaches as well, that I would like to be able to present to the Committee.

Senator LEVIN. Reference has been made to the procurement integrity provision of the 1988 OFPP amendments. It was suspended, as Senator Glenn mentioned, but it will come back into effect on November 30, 1990. There probably is room for improvement in that section, but overall I think it made a contribution in the area of procurement ethics.

In particular, it contains the first statutory definition of "inside information" and the first Government-wide statutory requirement that procurement officials recuse themselves from particular contracts before engaging in employment discussions with contractors.

First, do you support the goals of the procurement integrity provision?

Dr. BURMAN. I certainly support the goals and the intent of the procurement integrity provision, and I would say the administration would as well. We are certainly not out proposing that Government officials should be taking bribes or should be negotiating for jobs and giving contracts to favored suppliers, those kinds of things.

Senator LEVIN. Are you going to be proposing specific changes to the provision that you believe should be made before the provision comes back into effect? If so, what are those changes?

Dr. BURMAN. Since it has been put on suspension for a year, I set up a group in December, right after that took place, that was made up of the White House counsel, the Justice Department, NASA, DOD, and GSA, and the Office of Government Ethics. We also have the IG's involved in that group, and we have been meeting regularly to address that question specifically: Are there some things that

we should propose as an alternative to those provisions that will, in fact, come back into effect in something less than a year from now unless some alternative proposals are made? We are looking at all aspects of it, gratuities, employment negotiations, the revolving-door provisions, and the source selection information.

I am in agreement that I think there is something that needs to be done, particularly in the source selection information area, and that will be something we will clearly be concentrating on.

Senator LEVIN. Do you have any specific ideas yet?

Dr. BURMAN. We don't have a specific proposal yet, but I expect that we will have a proposal by the end of this month. That was the time frame that we were working on so that there would be time for full discussion of what these alternatives might be.

Senator LEVIN. OK. On a slightly different subject. As you know, I have been a supporter of value engineering for some time as a way of reducing the costs of Government procurement through more efficient production methods. OMB Circular A131 issued a couple years ago requires that all Federal agencies establish and improve their use of value engineering programs, but I understand that some agencies still don't have value engineering programs at all, or that they have inadequate VE programs. What can you do besides jawboning to make sure that those agencies put into effect effective VE programs?

Dr. BURMAN. What I have been doing, in fact, to try to get that program going in these agencies, is that I have been meeting with the Assistant Secretaries of those agencies regularly to try to get them to ensure that they have the resources and the people and the intent to carry that program out. I just had a meeting with Commerce, and they assure me that we will see some results next year in value engineering. They have some contracts where they are already proposing using that approach. It makes great sense. We are in complete agreement with you that the Government ought to take advantage of the ingenuity and innovation that is out there in the private sector.

Senator LEVIN. Would you give this Committee a list after you are confirmed of the agencies which do not have effective VE programs and what you are doing to get them on board?

Dr. BURMAN. I will certainly do that, and I can provide that to you quickly. We have been collecting that information.

Senator LEVIN. I think we will follow a 10-minute rule for today. Is that all right, Mr. Chairman? I am looking at you for approval here.

Chairman GLENN. Whatever you say.

Senator LEVIN. Senator Glenn.

Chairman GLENN. Just a couple of questions. On this suspension, the 1-year suspension of the procurement integrity provision as crafted by this Committee, I have been a little bit concerned that it could be a prelude to another attempt at outright repeal. And I would like to know what commitments or assurances you have from either the Director of OMB or the White House that they support the intent of the procurement integrity provision. Is it your opinion there is full support? Because we have been a little doubtful when there have been these talks about repeal and efforts to water it down.

Dr. BURMAN. I believe that there is full support for the intent behind these provisions. The question has been whether they might be done in some other fashion, whether they might be applied Government-wide as opposed to just contracting people. We are clearly working on that issue, as I mentioned to Senator Levin, and would have something for this Committee to look at. And I can assure you that we aren't going to try to send something up out of the blue. This will be something that we obviously all need to work together on if we are going to see if changes need to be made.

Chairman GLENN. You haven't had any feeling in your dealings with OMB or the White House that you are sort of being left twisting out in the wind?

Dr. BURMAN. I am really the Chairman of the Committee right now, with the White House counsel and these other agencies that are doing precisely that, looking at that piece of legislation.

Chairman GLENN. In the proposed changes or suggestions that you will be coming up with, have your discussions so far gotten into four particular areas: gratuities, employment, revolving door, and how we handle sensitive information? Are those four areas being dealt with?

Dr. BURMAN. All four, yes.

Chairman GLENN. Any proposed changes in those areas we would like to know about and work very closely with you. Please let us know at the earliest possible opportunity. I won't go through and ask your personal views on these. Obviously, we are all for God, flag and motherhood on these things, and I know that would be your statement on these as well. But I think you have to deal with those in a realistic way as to what we are going to permit or not permit in any recommendations that you make.

Staff has been conducting an investigation of the procurement practices at GSA in particular, and the central investigation has related to vendors who are interested in doing Government business—obtaining contracts—and they contact high level officials in the agencies, the administrator, deputy and so on. Some of these are one-on-one personal meetings with agency heads or deputies, and they are not documented. It makes me nervous when things like that occur. Fears are sometimes that the contacts were intended to affect the outcome of the procurement. They occurred on some informal, some on a formal basis. How are you going to deal with those?

Dr. BURMAN. Well, we do have new legislation now that Senator Byrd had placed in the Interior appropriations bill that deals with the question of influencing the award of a contract, where an individual hires someone, for example, to go in and make what perhaps we might consider a non-meritorious, sort of a sales pitch to someone. And there are new disclosure requirements that are associated with that law.

There are exceptions if you are doing direct professional and technical activities for individuals in a firm, but this doesn't include these other kinds of activities. So there are some provisions now in law that deal with that. Obviously, there needs to be an ability for heads of large corporations to talk to heads of Government agencies with regard to issues. So I am not quite sure how we deal with that particular question.

Chairman GLENN. Do you feel that FAR, the Federal Acquisition Regulations, or contract law or statutory ethics law address the level of activity permissible by vendors? Or do we need more work in that area?

Dr. BURMAN. I think that is probably something that we could look at. I am not sure if there is sufficient information there to deal with that precise question you are raising.

Chairman GLENN. Is there a specific policy at OMB relative to contacts by outside vendors with officials in OMB, how they handle that?

Dr. BURMAN. I know that with regard to the Office of Information and Regulatory Affairs, they keep a docket of people who are coming in to talk to them about rules. Otherwise, I don't know that there is any special recording kind of a requirement.

Chairman GLENN. We may need some OFPP guidance in some of those areas.

Dr. BURMAN. That is something I would be happy to work with the Committee on.

Chairman GLENN. Thank you, Mr. Chairman.

Senator LEVIN. Thank you, Senator GLENN.

Senator Bingaman?

Senator BINGAMAN. Thank you, Mr. Chairman.

On the procurement integrity section, you indicated that this month you should be able to complete a proposal, or be in a position to give the Congress your best guess as to what ought to be done. Is that accurate?

Dr. BURMAN. I think we would be in a position to discuss with the Committee the kinds of things that we were considering. I am not sure that we would have a full-blown legislative proposal to present to you, nor whether there is going to be an alternative legislative proposal to procurement integrity. That, frankly, hasn't been decided.

Senator BINGAMAN. But you are talking about next week.

Dr. BURMAN. I am talking about—well, we are at a point where right now we are looking at legislation to deal precisely with the source selection proprietary issue and an alternative to what language currently exists in procurement integrity. That is being refined. I have a meeting next week, and I hope at that meeting to get that issue resolved. If we do that, I think we are probably at a point where we can have some discussion.

Senator BINGAMAN. My level of concern is a little bit heightened by the fact that we met with Mr. Atwood in the Department of Defense and Mr. Bettie, and they didn't seem to be particularly informed or involved in this process. I don't know who in the Department of Defense you have working with you on this, but, as you know, about 75 percent of Government procurement is done out of that Department. So it is a pretty big gorilla to not involve.

Dr. BURMAN. Mr. Betti's new deputy is directly involved in doing this, as is his director of procurement and the general counsel who is responsible for procurement and acquisition matters. They have been members of this group that has been meeting regularly. So the Department of Defense is clearly in the middle of this.

Senator BINGAMAN. Okay.

Dr. BURMAN. And, in fact, Frank Hodsoll and I met with Mr. Atwood in July with regard to the procurement integrity issue.

Senator BINGAMAN. Okay. I guess on the general subject of DOD and OFPP relations, is that something that needs improvement? Are lines of communication there as good as you want them? What's the status? It seems to be we always get mixed signals. When we get to doing legislation, all three of us—Senator Levin and Senator Glenn and I are on both the Armed Services Committee and this one, and we meet ourselves coming around the corner at times on these issues.

Do you have anything you can tell us about communications in the executive branch between DOD and your office?

Dr. BURMAN. That has been somewhat of a rocky road in the past from time to time. On the other hand, my sense is that we are working very well together on these issues. All of these issues that I have discussed, I have been working closely with the Pentagon. And it seems to me that an office like ours that is responsible for making general policy really needs to get the benefit of the views of the key agencies in the process.

I have discussed these matters with Don Atwood, with Betti, with Eleanor Spector, the whole spectrum of people in the Pentagon, and I feel free to be able to discuss those matters with them. So I think that we have a fairly good relationship and an open line of communications. We don't agree all the time on everything, obviously.

Senator BINGAMAN. Well, just from my perspective, I think whatever you are able to present to the Committee here, there obviously would be equal interest in seeing it over in Armed Services. Andy Effron, the Armed Services Committe's General Counsel, who is here today, has done a lot of work on this issue of procurement integrity. I don't know if we will wind up dealing with the issue again in the defense bill this year or not. I think if you can get us whatever you are going to get us in the next few weeks, that would certainly facilitate consideration of it.

Let me also ask about how you folks interact with OIRA. We had a couple of hearings yesterday and today here in the Governmental Affairs Committee on paperwork reduction. And one of the witnesses made it very clear that the biggest paperwork burden is coming out of Treasury and the second biggest is in procurement, primarily defense but other procurement as well.

How does that relationship work between your office and OIRA on trying to reduce paperwork resulting from Government procurement?

Dr. BURMAN. I think we have very similar goals. We set up in 1987 a regulatory review process that hadn't existed in the office before, that really was modeled after the process that OIRA has been using to see that rules, when they come out, are necessary, are the least burdensome, and impose the minimum burden on the public. And all of the procurement paperwork rules coming into OIRA are now sent over to our staff. Our staff works jointly with OIRA in reviewing those rules and regulations, so we see that as a real partnership and think it is a very important role for us to play.

One of the things that also came out of our reauthorization bill was a requirement for us to provide to the public and to the Congress a report on procurement rules and regulations. And we have now submitted one, and the second one is about to be submitted. It was interesting. In our findings, we found that over a 6-month period we saw something over 250 rules and only about a fifth of those were generated through congressional requirements of one kind or another, which means there is a lot of action that can take place, in my view, in the executive branch to cut down on some of these regulations.

Senator BINGAMAN. I gather from Mr. Betti that there is a major review going on in the Department of Defense of all their procurement regulations at the present time.

Dr. BURMAN. There is.

Senator BINGAMAN. Are you folks involved in that? Are you monitoring that?

Dr. BURMAN. We are very familiar with that. We, of course, monitored the defense management review as that was being developed. The defense management review legislative package is just coming over to OMB now for review before it is submitted to the Congress. So we are in the middle of all of those sorts of things.

Senator BINGAMAN. That is all I have, Mr. Chairman.

Senator LEVIN. Thank you, Senator Bingaman.

Just a few more questions, Dr. Burman. The Competition in Contracting Act was one of the most significant of procurement reforms in the 1980's, and the intent of CICA was to make competition the rule rather than the exception in Government contracting.

In your view, has CICA been effective at increasing the level of competition in Government contracting?

Dr. BURMAN. I believe it definitely has.

Senator LEVIN. Do you know of any modifications that you believe are needed?

Dr. BURMAN. There have been some questions that have been raised from time to time about when people can make the judgments to go with something that is other than the lowest price item. That has been an issue of some concern over the years, and that is something that our people are looking at as well. You want to leave the Government with the opportunity to make those kinds of judgments if they find that the quality is such that they would like something, without necessarily all the time having to go back for further negotiations. But that is an issue that is under review. It is our office's position, clearly, that we ought to try to be as supportive as we can of the intent of getting full and open competition for Government procurements.

Senator LEVIN. The Federal Procurement Data Center, the FPDC, is a resource for basic procurement information. Congress has used some of the data collected and assembled by the FPDC to assess the impact of potential impact of numerous pieces of procurement legislation. The OFPP recently issued a report praising the work done by the FPDC and recommended that the office's role be expanded.

Can you tell us what the status is of the recommendations in that report?

Dr. BURMAN. Right now we are having some problems with the FPDC. They have just recently undergone a major change in their computer support activities, and so they are in some difficulty. We have, in fact, just asked the Defense Logistics Agency to pick up the computer support for that activity.

What we are doing now is trying to take care of that problem; when we do that, then our hope is that once that is resolved we will be able to get them to do some of the other kinds of things we were talking about, like being able to service the Government more as an analysis operation than just a data-collection outfit.

Senator LEVIN. We have heard rumors that the FPDC staff might be cut drastically, and the office could be left without sufficient staff to respond to congressional requests. Any truth to those rumors?

Dr. BURMAN. I believe we have gotten this problem taken care of, but it is a difficult problem. And we are certainly——

Senator LEVIN. Does that mean there is no truth or there is truth?

Dr. BURMAN. There may be some fewer staff in the office as a result of this short-term change. We are also bringing some activities in-house that were formerly done on contract—again, as a way to try to save some money in order that we can preserve the ability of the office to give Congress the information it needs.

Senator LEVIN. What are we talking about in terms of staff reduction?

Dr. BURMAN. There are only, I believe, 12 or 13 people in the office now. I think it is something like two or three people would be doing some other things.

Senator LEVIN. Can you give us a specific report for the record?

Dr. BURMAN. I would be happy to provide that for you.

Senator LEVIN. What was the staffing situation; what is it now; what is it proposed to be; who is proposing to cut it; and why.

Dr. BURMAN. Sure.

Senator LEVIN. Thanks. On the FFRDC issue, you worked on this issue for a long time. As you know, in 1984 OMB issued a policy letter that regulated the FFRDC. It was supposed to be formalized with a regulation soon after, but that regulation languished until you revitalized it.

I understand that the final regulation was issued on February 5. While that regulation doesn't incorporate all the suggestions that I made, it does include a number of them, and it is generally very good. I want to compliment you on getting it done and doing it well.

My question is whether you would continue to oversee FFRDC issues as the head of OFPP.

Dr. BURMAN. We would continue to look at the FFRDC question.

Senator LEVIN. Do you have any plans in that area?

Dr. BURMAN. I don't have anything specific, but we get lots of questions, of course, from the Professional Services Council and others when proposals are made by Government agencies to set up these kinds of activities, and we look at those. There have been concerns about the procurement systems being used by these activities as well. That is another area we have been looking at. So we will continue them.

Senator LEVIN. Has there been a recent growth in the number of new FFRDC's?

Dr. BURMAN. I don't think there has been a large increase in the number. In fact, a large number of them—there were a much larger number in the early 1970's.

Senator LEVIN. Are there a number of new ones? I know some have been eliminated.

Dr. BURMAN. There is a software one that has been set up in the last couple of years. I know there had been an SDIO proposal that never happened. There had been some discussion of some others, but I don't have a listing off the top of my head. I would be happy to look into that and provide that to you.

Senator LEVIN. Okay. That would be helpful.

One other concern of mine has been unfair competition between FFRDC's and the private sector based on the FFRDC's exemption in the Competition in Contracting Act. They don't have to compete for Government work in the same way that private firms do because of their expertise. They get what amount to sole source contracts.

In 1987, the Oversight Subcommittee which I chair held a hearing on that issue and used as an example a Michigan firm named Geo Spectra which had been unfairly beaten out of a Government contract by an FFRDC due to that FFRDC's exemption from CICA. I am wondering if this is an area of unfair competition which you would be willing to monitor.

Dr. BURMAN. That is certainly something we would look into. And, in fact, we do since those concerns are raised to us as well as to you.

Senator LEVIN. Will you keep a close eye on that?

Dr. BURMAN. Will do.

Senator LEVIN. The record will be kept open so that members of the Committee will have an opportunity to submit written questions to you. We have one question for the record from Senator Roth. We also have some questions for the record from Senator Sasser, who was also unable to be here this afternoon. I don't think either one of them wants to impede Committee action on the nomination, but we would request your answers prior to markup. And so we will submit both Senator Roth's and Senator Sasser's questions for the record, and any others that Members may have.

Do you have anything else that you want to add?

Dr. BURMAN. No. Again, I am just very pleased to have been nominated, and, if confirmed, I will do my best to carry out the responsibilities of the office.

Senator LEVIN. Well, we congratulate you, we commend you, and send Zoe our best.

Dr. BURMAN. We will do that. Thank you very much.

Senator LEVIN. We stand adjourned.

[Whereupon, at 3:15 p.m., the hearing was adjourned, subject to the call of the Chair.]

APPENDIX

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

STATEMENT OF
ALLAN V. BURMAN
ADMINISTRATOR DESIGNATE
OFFICE OF FEDERAL PROCUREMENT POLICY
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
REGARDING NOMINATION TO BE ADMINISTRATOR
FOR FEDERAL PROCUREMENT POLICY
FEBRUARY 22, 1990

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to respond to questions you may have with respect to my nomination to be the Administrator for Federal Procurement Policy.

I am delighted and honored that the Director of the Office of Management and Budget (OMB) has recommended me and the President has nominated me for this important position. As a career civil servant, I have spent many years at OMB and believe it to be one of the finest institutions in government. The staff is hard-working, capable and dedicated. I know that Mr. Darman thinks highly of them and relies heavily on them as well.

I believe my nomination to this post by the President affords recognition to all civil servants who have worked hard to carry out the missions of their agencies in a responsible and effective manner. If confirmed, I will do my best to carry out the mandate of the Office of Federal Procurement Policy Act, that is, to seek to bring about efficiency, economy and effectiveness in Federal procurement.

As Deputy Administrator and Acting Administrator of the Office of Federal Procurement Policy, I have worked closely with this Committee on many matters affecting Federal procurement, including the permanent reauthorization of the Office in 1988. I am well aware of and very grateful for the support the Committee has given to our Office over the years. While many notable accomplishments have been achieved, such

as the enactment of the Competition in Contracting Act, there are certainly many aspects of the acquisition process that still need improvement. I would hope to continue to work with you and other appropriate Committees of Congress and with the agencies and the public to this end.

Mr. Chairman, this concludes my prepared remarks. I will be happy to respond to any questions you or other Members of the Committee have.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Allan Victor Burman

2. Position to which nominated:

Administrator for Federal Procurement Policy

3. Date of nomination:

October 25, 1989

4. Address: (List current place of residence and office addresses.)

Home: 1515 North Highland Street
Arlington, Virginia 22201

Office: Room 350, Old Executive Office Bldg.
Office of Management and Budget
Washington, D. C. 20503

5. Date and place of birth:

August 30, 1944; Bristol, Connecticut

6. Marital status: (Include maiden name of wife or husband's name.)

Married (September 3, 1966)
Wife: Christine A. Burman, nee Anderson

7. Names and ages of children:

Kirsten Zoe Burman (Age 19)
Date of birth: March 17, 1970

8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.

Bristol Central High School, Bristol, Connecticut
1958-1962. High School Diploma, June, 1962.

Wesleyan University, Middletown, Connecticut
1962-1966. B.A., Summa Cum Laude, Phi Beta Kappa,

June, 1966.

Institute of Political Studies, University of Bordeaux, Bordeaux, France (Fulbright Grant), 1966-1967.

Harvard University, Cambridge, Massachusetts 1967-1968. M.A., June, 1968.

Southern Connecticut State Teachers College, New Haven, Connecticut. 1969-1971. Teaching Certificate, Summer 1971.

The George Washington University, Washington, D.C. 1976-1983. Ph.D., May, 1983.

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary)

Please see Attachment A.

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with Federal, State or local governments, other than those listed above.

Member, Defense Advisory Panel on Government-Industry Relations, Department of Defense

Member, Defense Advisory Committee on Determining a Methodology for Analyzing Profitability, Department of Defense

11. **Business relationships:** List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational or other institution.

Had served as an unpaid member of the Board of Advisors of a non-profit educational institution, the National Institutes of Education, after membership was approved by the OMB ethics officer. I have resigned my position as of October 30, 1989.

12. **Memberships:** List all memberships and offices held in professional, business, scholarly, civic, public, charitable or other organizations.

Member, Lyon Village Citizens Association,

Arlington, Virginia; Beta Theta Pi, College Fraternity; Had previously served as President of Key Elementary School PTA (Arlington) and served as Member of Arlington County Advisory Council on Instruction.

13. Political affiliations and activities:
(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

Have served as a career government official since coming to Washington and have held no office in any political party. Was a candidate for the Arlington County School Board in 1984.

(b) List all memberships and offices held in and services rendered to all political parties or election committees rendered during the last ten years.

Am a member of the Republican Party.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

Provided $350 in 1988 to the Republican Party.

14. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

At Wesleyan University, Baker Scholarship, Edward Bennet Rosa Worthy Student Award, Junior Year Phi Beta Kappa, graduated Summa Cum Laude with Honors in History; Fulbright Grant to the University of Bordeaux, Bordeaux, France; Management Intern, Office of Management and Budget; Quality Salary Increase, Office of the Secretary of Defense; nomination by OMB and appointment as a Federal Executive Fellow at the Brookings Institution, 1980-1981; OMB Annual Senior Executive Service Bonus Awards, 1986-1989; Presidential Rank Award of Meritorious Executive, OMB, 1985.

15. Published writings: List the titles, publishers, and dates of books, articles, reports or other published materials which you have written.

The New Procurement Integrity Rule with Stephen M. Ryan and James W. Taylor. August 1989. Training booklet published by the National Contract Management Association to help in understanding the new procurement integrity rules. Received no fees or

royalties.

16. Speeches: Provide the Committee with three copies of any formal speeches you have delivered during the last five years which you have copies of and are on topics relevant to the position for which you have been nominated.

I have given numerous speeches in my official capacity, but I speak from notes and do not use a written text.

17. Selection: Do you know why you were chosen for this nomination by the President?

I believe I was chosen for this position because the Director of the Office of Management and Budget and the President felt that I had the background and the experience successfully to carry out Administration policy in the very important and highly technical area of procurement policy. The President also stated in a meeting with the Senior Executive Service that he had encouraged his cabinet officials, where appropriate, to appoint career executives to important policy positions.

In my current capacity as Deputy Administrator and Acting Administrator, I work closely with industry and legal associations and other groups interested in Federal procurement policies. Many of these groups are supportive of my candidacy for this position.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I have had a long career in the Federal service at increasingly higher levels of authority and responsibility. I have served both in the Executive Office of the President at OMB and also in the Office of the Secretary of Defense. As Chief of the Air Force Branch in the National Security Division of OMB from 1981-1986, I was responsible for reviewing defense-wide acquisition, research and development, and strategic programs as well as overall Air Force programs. I have served since January 1987 as the Deputy Administrator of the Office of Federal Procurement Policy, and since May 1988, I have been Acting Administrator. In these posts I have addressed a number of key procurement policy issues, including working with the Congress on the November 1988 permanent authorization given to OFPP. In particular, my background on Department of Defense programs and issues has been very useful in my current position, since the Defense Department plays such an important role in the acquisition process.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Yes. I have already severed any relationship with the National Institutes of Education. No other relationships exist.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No. I have no plans to pursue outside employment.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No. I am currently in government service and I understand that provisions exist for individuals to resume career service at the end of a Presidential appointment requiring Senate confirmation. However, I have no plans, commitments or agreements to do so.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No. No-one has made a commitment to employ me after I leave government service.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes. If confirmed, I expect to serve, at the pleasure of the President, until the next Presidential election.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

None. I have no financial or other arrangements with business associates, clients or customers.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None. I have no investments or obligations or other relationships which could involve any potential conflicts of interest.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None. I have had no transactions that could result in any conflict of interest.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

As a representative of the Administration, I have worked with the Congress on a number of pieces of legislation over the past ten years. Major items include reauthorization of the Defense Production Act in the early 1980's and the reauthorization of the Office of Federal Procurement Policy in 1988.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

I have no conflicts of interest to resolve.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes. I agree to having written opinions from the OMB

designated ethics officer and the Office of Government Ethics sent to the Committee.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No. I have never been cited or disciplined or been the subject of a complaint.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense.

No. I have never been convicted of any criminal violation.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

As I have noted above, I have had a long career in the Federal service and have received a number of honors and awards for my activities. I am delighted that the Director of OMB has seen fit to recommend me and the President has honored me with the nomination to be the Administrator for Federal Procurement Policy. If confirmed, I will do my best to be worthy of that honor.

E. FINANCIAL DATA

(retained in committee files)

ATTACHMENT A

LIST OF JOBS HELD SINCE COLLEGE

Deputy Administrator and Acting Administrator, Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB), Washington, D.C. May 1988 to the present.

Deputy Administrator, OFPP, OMB. December 1986 - May 1988.

Chief, Air Force Branch, National Security Division, OMB. October 1981 - December 1986.

Coordinator for Research and Development, Air Force Branch, National Security Division, OMB, October 1977 - October 1981.

(Federal Executive Fellow, The Brookings Institution, Washington, D.C. September 1980 - August 1981).

Special Assistant to the Director of Defense Education, the Office of the Secretary of Defense, Manpower, Reserve Affairs and Logistics, Washington D.C. July 1975 - October 1977.

Budget Examiner, Navy Branch, National Security Division, OMB. September 1971 - July 1985.

Social Studies Teacher, Staples High School, Westport, Connecticut. September 1968 - July 1971.

PRE-HEARING QUESTIONS FOR

ALLAN V. BURMAN

TO BE ADMINISTRATOR OF THE

OFFICE OF FEDERAL PROCUREMENT POLICY

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

1. Why do you believe the President nominated you to serve as Administrator of the Office of Federal Procurement Policy?

I believe I was chosen for this position because the Director of the Office of Management and Budget and the President felt I had the background and experience to successfully carry out Administration policy in the very important and highly technical area of procurement policy. The President also stated in a meeting with the Senior Executive Service that he had encouraged his cabinet officials, where appropriate, to appoint career executives to important policy positions.

2. Were any conditions, expressed or implied, attached to your nomination to be Administrator of OFPP.

No.

3. Have you made any commitments with respect to the policies and programs which you will attempt to implement as Administrator? If so, what are they?

No.

4. Are there any issues involving OFPP from which you may have to disqualify yourself? If so, what system will you establish to carry these out?

No. If such a situation should arise, I would recuse myself from dealing with the issue and ask that my Deputy handle the matter.

II. ROLE AND RESPONSIBILITIES OF OFPP ADMINISTRATOR

1. What do you consider to be the mission of OFPP?

OFPP's mission, in my view, is to provide leadership in

the Executive branch on government-wide procurement policy matters and to work with the Congress, the agencies and the private sector to reform and improve the acquisition process.

2. What do you believe are the major challenges confronting OFPP, and how do you propose to address them?

While there are many challenges confronting the Office, perhaps the key challenge is to ensure that the acquisition process is open and fair without being so overburdened with rules and requirements that only a select few firms will be willing to deal with the government. Upgrading the quality of the procurement work force, reviewing all regulations to ensure that they are necessary and as simple as possible, ensuring policies are in place to protect the integrity of the process and offering additional legislation to allow the government to take better advantage of the commercial market place are four important approaches for dealing with these problems. I plan to address these problems, as I have in the past, by working openly with all concerned parties.

3. What do you consider to be your basic role and responsibilities as OFPP Administrator?

If confirmed as Administrator, my basic roles and responsibilities will be to supervise and lead the Office, serve as an Executive branch spokesperson on procurement policy matters and work to improve the acquisition system.

4. What objectives would you like to achieve in your tenure as Administrator of OFPP, and why?

The following are among the important objectives that I would seek to accomplish:

- ensuring that all significant rules are provided to the public for comment, so that people affected by these rulings have a clear opportunity to evaluate and react to them;

- making it easier for commercial firms including small, and small and disadvantaged, businesses, to provide their goods and services to the government, so that these firms get the benefit of government business and the government gets the benefits of competition, innovation and lower costs that

the market provides:

- encouraging firms to develop and apply systems of self-governance and to be fully aware of and avoid potential conflicts of interest in doing business with the government;

- upgrading the quality of the acquisition work force so that officials can rely more on the judgment of contracting officers as opposed to highly structured and detailed rules and regulations for conducting the government's business; and

- fulfilling the mandate of the OFPP Act by working to bring about efficiency, economy and effectiveness in Federal procurement.

5. Have you discussed the Administrator's position with the Director of the Office of Management and Budget? What is your understanding of the Director's perspective on how he expects the Administrator to relate to him and further, how he expects OFPP to operate within OMB?

Yes. I would carry out my responsibilities following the guidance and direction of the Director and Deputy Director. The Executive Associate Director has overall responsibility for all management activities in OMB.

6. How you do envision your relationship and the nature of your responsibilities as they relate to the Deputy Director of OMB, the Executive Associate Director of OMB, and the Administrator of the Office of Information and Regulatory Affairs (OIRA)?

I would carry out my responsibilities as noted above. In addition, I would work closely with the OIRA Administrator in reviewing all rules having procurement paperwork implications. We share the same goal of streamlining the regulatory process and eliminating unnecessary paperwork.

7. What role do you anticipate playing in the selection of individuals to appointive and career positions within OFPP?

I plan to play a major role in the staff selection process. In a small policy office such as OFPP, a quality staff is vital to carrying out our agenda.

Every individual has an important role to play.

III. OFPP POLICY AND MANAGEMENT

1. What steps do you plan to take in combatting waste and abuse in government procurement?

I would plan to continue a number of initiatives that the Office has already undertaken to deal with this problem. Last July I sent a memorandum to the heads of executive agencies and departments alerting them to potentially serious procurement problems that their agencies were likely to face and asking them to do a full review of their internal controls over their procurement systems. My staff is now evaluating the individual agency reports. Among the problem areas I noted were contract administration and consultant problems. We have also, largely in response to legislation proposed by Senator Pryor, developed a new set of policies addressing consultant conflicts of interest. In addition, the OFPP staff is working with the OMB management staff on procurement problems reported by agencies as high-risk areas. I will also work to make OFPP more pro-active in this area rather than reactive.

2. The Inspector General of NASA recently testified before this Committee that NASA is unable to oversee its spending -- nearly 90 percent of which goes to procurement -- due to inadequate contract administration. This allowed many subcontractors in particular, who were not subject to competitive bidding, to reap excessive benefits.

   a) Do you believe this is an isolated -- or government-wide -- problem? What other federal agencies, especially those heavily dependent upon purchasing services, would you say have serious procurement management deficiencies?

   b) What can you do, as OFPP Administrator, to address such management weaknesses?

a) I do not believe this to be an isolated problem. In fact, I have discussed this issue with the GAO who recently filed a report identifying procurement weaknesses in a number of civilian agencies. These included the Departments of Education, Energy, Health and Human Services, and

Housing and Urban Development.

b) The OFPP Administrator can do a number of things to help to deal with these problems. These include ensuring that high level agency attention is directed at fixing the problem, providing insights on how other agencies have dealt successfully with similar problems, or issuing policies to help prevent such problems from reoccurring. With regard to the specific contract administration problems noted, we have set up a team of OFPP staff to investigate the situation and propose reforms.

3. In their Federal Managers Financial Integrity Act (FMFIA) reports, a number of government agencies have identified serious procurement problems which make their programs a "high risk" for waste and fraud. What actions can OFPP undertake to address these types of findings?

The OFPP staff is working with the OMB management staff to identify these weaknesses, assess the adequacy of agency corrective actions, and develop policies and programs to eliminate existing problems through the types of measures described above.

4. Do you have any plans to change or revise the current OFPP organizational structure?

I believe that the basic structure of the Office is sound. If confirmed, I would seek to fill the Deputy position, which I continue to hold, as well as the Senior Executive Service positions for policy development and procurement law, which are vacant.

5. From your experience as Acting Administrator, does OFPP have the resources necessary to fully carry out and implement its agenda?

Yes. Under our current appropriations bill for FY 1990, the Office is authorized 37 staff positions and funding of $2.6 million. We are requesting 37 positions and $2.9 million for FY 1991.

6. What steps will you take to fulfill OFPP's mandate to rid government contracting of detailed specifications to make way for more suppliers, innovation and new technology?

In addition to the Department of Defense carrying out

the new provisions relating to commercial products in the most recent Defense Authorization Bill, we will soon propose legislation on commercial products that will help to achieve these purposes. We are also looking for ways to encourage agencies to take greater advantage of performance-based contracting techniques.

7. As Acting Administrator, what use have you made of OFPP's authority to test innovative procurement methods and procedures?

We have used the testing authority to see if government contracting officials and purchasing agents could make effective use of bank cards for small purchases. Commerce conducted the test and, given its success, we are now implementing this approach government-wide. A successful test of a "paperless" procurement system using electronic transfer of information between the Government and its contractors has been conducted by the Defense Logistics Agency, using OFPP's test authority. We are also contemplating using the test authority to see if we can provide an alternative to the use of individual sureties to satisfy government bonding requirements for construction contracts.

8. How can you ensure that OFPP will meet its mandate to substitute more front-end competition for complex regulations?

We are preparing to send to Congress draft legislation which would allow contracting officials to make decisions based on "best value" and that would allow them to use short-form contracts, similar to those used in business. We are also working to stress performance requirements in lieu of process requirements in our contracts. Under these approaches, competition should be enhanced and the government should get the benefits of the lower costs, greater innovation and higher quality that the competitive market provides.

9. How would you describe the role played by the Federal Acquisition Regulatory Council in overseeing procurement policy, and how would you rate its effectiveness?

The FAR Council, per se, has played only a limited role in overseeing Federal procurement policy since its creation a year ago. There has been only one formal meeting of the Council, and that took place shortly before Bob Costello left office as Under Secretary of Defense for Acquisition. On the other hand, I have met with the senior acquisition executives of NASA and GSA

and with senior Defense acquisition personnel on virtually every major rule and regulation that has been incorporated in the FAR since the establishment of the Council. These include, among others, rules on procurement integrity, lobbying, liquidated damages, and individual sureties. Numerous changes have been made in these regulations and policy guidelines as a result of these meetings, and I believe that the acquisition process is much improved as a result of these contacts. I have found all of the agencies to be very cooperative in these efforts.

10. **Based upon your experience, are you satisfied with the extent to which agencies provide private sector participation in the development of procurement policies and regulations?**

I believe the agencies do solicit and take public comment into account in putting out their rules, but I believe more can and should be done. Given the wide-ranging effect of these rules on the government acquisition process -- and also on the very willingness of firms to offer their goods and services to the government -- I believe that we should get their views as early in the process as possible. No one has a greater incentive to point out burdens associated with the rules or to offer suggestions for meeting the same goals at less cost.

11. **Some analysts have suggested that OFPP, in order to conduct effective policy oversight, must more actively seek feedback from users of the procurement system. Do you share this concern and, if so, what steps can you take as Administrator to take user comments into account? Would you consider holding public forums on procurement issues?**

One of the major responsibilities of this Office is to work closely with the public on matters affecting them. I believe that we have been particularly sensitive to this charge and have actively sought the viewpoints of industry, the agencies and others on a variety of issues. Clearly, we have had many discussions on such matters as the Procurement Integrity rule and the Consultant Conflict of Interest Policy Letter. We have also had public meetings on Buy American legislation. We have also sought public suggestions on how to deal with particular problems. For example, in January 1990, we asked for views on how to assist small businesses having difficulty obtaining sureties to do Federal construction work.

IV. 1988 OFPP ACT AMENDMENTS

1. This Committee played the major role in the reauthorization and strengthening of the Office of Federal Procurement Policy (OFPP) through the enactment of the 1988 OFPP Act Amendments (P.L. 100-679). In your judgment, how can OFPP's authorities and functions best be utilized?

I believe that the Office has an important role to play in ensuring that the acquisition process is as fair and as uniform as possible, that it does not become so burdened with rules that it grinds to a halt under its own weight, and that it relies as much as possible on competition and the market place to achieve its goals. Where there are failures in any of these areas, I believe OFPP's authority to rescind rules and to issue policies and regulations should be used to correct them.

2. As Acting Administrator, what have you done to get the Federal Acquisition Regulatory Council operating to better coordinate and manage changes in procurement regulations?

As mentioned previously, I have been working closely with the FAR Council agencies on important procurement matters. While there has been only one formal FAR Council meeting held, rules relating to individual sureties, liquidated damages and procurement integrity, among others, have all been the subjects of meetings of senior acquisition officials of GSA, NASA, DOD and OFPP.

a) Who are the present members of the Council and how many times has it met?

The NASA and GSA acquisition heads, the OFPP Administrator and the Under Secretary of Defense for Acquisition serve on the FAR Council. It has met once, in May 1989.

b) What actions can be undertaken to ensure that the members of the Council and their respective agencies have the commitment necessary to make this structure work?

I believe that the agencies do have a commitment to do a better job of coordinating

their rulemaking efforts and working together to resolve government-wide problems. For example, both Defense and OFPP have conducted major reviews to streamline the rulemaking process. In addition, OFPP is now receiving and reviewing all final rules before issuance to ensure that government-wide policies are being followed.

c) When do you anticipate the Council will issue its report to Congress on the burdens imposed by the procurement process, including recommendations and an assessment of the extent to which the system can be streamlined?

The report to Congress on the extent of the paperwork burden in the procurement process was sent to the Committee in January 1990.

3. Section 25(d) of the 1988 Amendments establishes that Council members shall approve or disapprove procurement regulations prepared for public comment, and that they shall ensure the agency requirements mandated by the Paperwork Reduction Act (44 U.S.C. 35) and relating to procurement regulations are met.

To what extent are members of the Council taking steps to ensure they and their respective agencies are conforming to these provisions?

We have been reviewing all rules from both a procurement policy and procurement paperwork perspective and informing agencies that paperwork reviews must be performed in cases where they have failed to do so. Moreover, we expect to develop a comprehensive check list for agency use in the near future that will focus agency attention on these and other factors relating to the development of regulations.

4. What progress has been made to re-establish the Cost Accounting Standards Board? When do you expect all the board members, including the private sector and accounting profession representatives, will be appointed?

There has been some difficulty in getting the Board established, largely due to uncertainties on whether or not an active industry member could be selected to serve on the Board. It was my belief that Congress had intended that an active industry member should serve.

However, there was a concern that selection of such an individual might violate various ethics and conflict of interest provisions of law. The Office of Government Ethics recently determined that an active industry member could in fact serve on the Board, subject to certain recusal provisions. We are now proceeding with the appointment process. GSA and DOD members have already been named.

5. The 1988 OFPP reauthorization created a commercial products advocate within OFPP to encourage cost-saving commercial product substitution where appropriate, especially in regard to DOD purchases. How do you view this effort, what has been the experience to date, and what actions will you take if confirmed to make this position as effective as possible?

I believe that much more needs to be done to encourage the purchase of commercial products by the government. Allan Brown of my staff is serving as acting commercial products advocate. He is also responsible for developing the draft commercial products legislation that we plan to send to the Congress this spring. I am convinced that we need to keep the pressure on the agencies to use commercial products wherever possible, and I would plan to continue this emphasis if confirmed.

6. The 1988 OFPP amendments provide that members of the public are entitled to a written decision from the Administrator as to whether a procurement regulation is inconsistent with the Federal Acquisition Regulation (FAR). What are your views on this provision and what has been the experience to date?

I believe the provision is useful. It allows the public to challenge agency actions and to get a response in a timely manner. When a request comes in to us, we immediately send a copy to the appropriate agency and ask for their views on the matter. This approach serves two purposes. It allows us to get the benefit of the agency rationale for what has been done. It also alerts senior agency management to the concerns expressed by the public. To date, we have had seven requests to review 11 agency regulations. Thus far, three of the seven requests have resulted in withdrawal -- by the sponsoring agencies -- of the regulations in question. The remaining four requests are under review by OFPP and the affected agencies.

The regulations range from proposed restrictions on the purchase of antifriction bearings from non-domestic

sources to duplicative requirements for using material safety data sheets in shipments of hazardous products. Six of the regulations under review are agency supplements to FAR coverage of the procurement integrity statutory provisions of the OFPP Act, as amended. The FAR coverage on procurement integrity was suspended pursuant to the Ethics Reform Act of 1989. Since agency FAR supplements must follow the FAR, the agency FAR supplements on procurement integrity are also suspended.

7. The 1988 OFPP amendments also contained Section 27 of the Act -- the so-called "Procurement Integrity" Provision. The Ethics Reform Act of 1989 suspended Section 27 for a period of one year. Do you see any need for changes in Section 27 before it goes back into effect on November 30, 1990? If so, what changes would you recommend?

Do you foresee any problems in the applicability of Section 27 to contracts that are performed in part during the suspension period and in part after that period is concluded? Are any additional problems caused by the fact that some of these contracts were entered while the statute was in effect (prior to the suspension), while others have been entered during the suspension period? If so, what are these problems, and how would you recommend that they be addressed?

Representatives from the key rulemaking agencies, the Office of Government Ethics, the Justice Department, the Inspectors General, and the White House Counsel and OFPP have been meeting since last December to address the question of whether the Administration should propose changes to the Procurement Integrity provisions. As you know, the law is scheduled to go back into effect next fall. While the group has been focusing on all four aspects of the statute--gratuities, employment discussions, revolving door and sensitive information -- we have not yet reached a consensus on alternative formulations. I believe that we will be able to discuss with the Committee any suggestions for changes by the end of this month.

There has been some confusion with regard to contracts covered by the procurement integrity provisions. We have been advising interested parties that these provisions will have no effect during the suspension period. However, if violations took place prior to the law's being suspended, then violators would be subject to the law's sanctions.

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V. FEDERAL PROCUREMENT

1. As Administrator, what role will you play and what actions will you undertake to streamline, simplify, and otherwise improve federal procurement policy and process?

I will continue with actions we have underway and, in particular, I will continue to stress OFPP staff reviews of the Federal Acquisition Regulation and proposed agency rules to see that they are necessary and impose the minimum burden. I will also work to achieve new legislation to encourage a streamlined system for the purchase of commercial products.

2. This committee was instrumental in the passage of the 1984 Competition in Contracting Act, designed to foster competitive contract awards. While there was a noticeable surge in contracts awarded on a competitive basis in the first years following enactment, in recent years there has been essentially no increase. Further, some have criticized this Act for focusing on low-cost bids to the exclusion of the factors, such as contractors' records for quality and timely performance.

Where do you stand on the issue of competition in contracting, and what can this Committee expect from you as Administrator in this area if confirmed?

I strongly support all efforts to improve the amount of competition in Federal contracting. Competition serves many purposes, and not just to lower costs. For example, it allows the government a broader selection of items to choose from, and it helps to reduce "old boy network" pressures on buying goods and services. Preliminary data for FY 1989 show the level of competition in government procurement to have risen to 66 percent of the dollar value of items bought, 26 percentage points higher than was the case in 1983. If confirmed as Administrator, I would continue to emphasize strongly the need for such competition. I see no conflict in considering such factors as quality and timeliness in conjunction with cost. This is fully consistent with the Competition in Contracting Act and the concept of "best value".

3. Some analysts have criticized the increasing use and reliance by agencies on: a) supplemental regulations and, b) non-standard or unpublished policies and clauses. They contend these methods largely serve to circumvent the applicability of the Federal Acquisition

Regulation (FAR).

Do you see these as growing concerns and, if so, how should they be addressed?

I do. We have alerted agencies to these problems and have requested that they review their clauses and supplements to eliminate unnecessary items. I believe the procedures in the OFPP Act that allow the public to complain about inappropriate rules are also useful in pointing out these problems and ensuring corrective action.

4. In your opinion, how effectively has OFPP's Procurement Regulations Review Program curbed (a) duplicative, (b) unnecessary, and (c) conflicting procurement requirements at service or bureau levels, as well as lower-tier command and buying activity levels?

I believe our program has been moderately effective in curbing inappropriate rulemaking at the service or bureau level. In a number of cases, our staff has requested that rules either be withdrawn or proposed for inclusion in the FAR as opposed to being included solely in an agency supplement. Also, some of the requests sent to us using the 60 day review authority have asked us to evaluate actions taken by lower-tier command and buying activity levels. This is a particularly effective mechanism for dealing with these issues.

5. Are you satisfied that existing regulatory control and compliance mechanisms are adequate for approving or disapproving FAR deviation requests proposed by agency officials?

I believe that the existing systems are adequate. There needs to be some flexibility for the agencies to deviate from the FAR in special cases.

6. One method suggested to improve the efficiency and effectiveness of the government's procurement system is to streamline and simplify the current regulatory procedures and paperwork. Do you agree and, if so, how can this matter best be dealt with?

I do agree. In addition to the efforts being undertaken at Defense, the OFPP staff is currently conducting a review of the Federal Acquisition Regulation from precisely that perspective. Proposed legislation to make it much simpler for the government to use streamlined procedures to purchase commercial

products will, if enacted, also do much to cut out unnecessary paperwork.

7. What role, if any, did OFPP play in the Department of Defense streamlining plan recently outlined by Secretary Cheney?

Along with other parts of OMB, we discussed the Defense Management Review with senior Defense officials, and reviewed and commented on drafts of the Report.

8. What actions have been -- or should be -- undertaken by OFPP in response to allegations made by the Inspector General of the Department of Defense (DOD) that DOD improperly reported "non-competitive" contract actions as "competitive"?

I believe that the level of competition is being reported appropriately. The DOD IG concern was that if proposals were bid competitively, but only one responsible offeror was present, then that bid should be called non-competitive. I disagree. We do have data in the Federal Procurement Data System that identify how many proposals received just one bid, so information is available in the system on this issue.

9. Do you plan on further developing a working relationship between the procurement activities of OFPP and the information management and clearance activities of the Office of Information and Regulatory Affairs (OIRA)?

I believe we have an excellent arrangement now, where we are working with OIRA both in reviewing procurement paperwork rules and also in obtaining rule-making information from the agencies.

10. What steps have you taken as Acting Administrator to: 1) define the rights and protection of technical data and computer software developed at private expense, and 2) promote the commercial application of technical data developed using federal funds?

Our office has been heavily involved in setting policies for agencies to follow that allow industry a greater opportunity to negotiate to retain their rights to technical data and computer software, as long as government needs can be met. The Defense Department is working on a revised rule to further implement these policies and I would expect this rule to be completed this spring. Once this rule is promulgated, it will serve as the basis for an amendment to the Federal

Acquisition Regulation that will implement these policies government-wide.

11. **As Administrator, what actions will you undertake to encourage the participation of small and minority business concerns in the federal marketplace?**

OFPP has been and will continue to be heavily involved in small, and small and disadvantaged business matters. We want to make sure that all companies have a full and fair opportunity to participate in the Federal market place. Specific areas that we will continue to address include the Small Business Competitiveness Demonstration program, surety bond requirements for businesses doing construction work, goal-setting for small businesses, and liquidated damages requirements. In each of these areas we are looking at approaches for trying to encourage greater involvement by small and small and disadvantaged businesses in government procurement.

12. **A number of analysts have recommended that OFPP actively promote the use of specifications describing needs in terms of performance requirements as opposed to detailed specifications or specialized regulations. Do you think this idea has merit?**

I believe that this idea has great merit. When one sets requirements in terms of performance specifications, you take much more advantage of the creativity and innovation inherent in the market. Setting requirements in terms of detailed specifications may cause many firms not to bid on items, because items sold in the commercial sector do not match their requirements precisely. The government and the taxpayer are the ultimate losers as a result of this approach.

13. **The President's Task Force on Regulatory Relief and OMB have supported efforts to reduce overhead costs and increase productivity for federally-funded university research under the Federal (nee Florida) Demonstration Project. This project has been expanded to incorporate research contracts in addition to grants and further made applicable to institutions outside the state of Florida. What is your opinion of this effort, and how can we best use the data and experience generated from this project?**

Senator Chiles, a former member of this Committee, was instrumental in getting this project underway. The objective was to reduce the administrative burden on

researchers, thereby improving the productivity of their efforts. I believe the project has been valuable, and is working well with regard to contracting for research. The major change so far has been in eliminating a number of prior approvals that researchers formerly had to obtain before they could do such things as purchase equipment or conduct travel. If we can simplify these kinds of contracts, then we should be able to do the same with contracts in other areas as well.

14. **What plans do you have for OFPP to provide leadership to professionalize the procurement work force through the Federal Acquisition Institute?**

Last December, Frank Hodsoll, OMB's Executive Associate Director, and I met with the Director of the Office of Personnel Management (OPM) to argue the case for affording professional status to the contracting work force. Mrs. Newman at that time agreed that the contracting series merited such status. The Federal Acquisition Institute, under the direction of OFPP, is working with OPM on the qualification standards to implement this policy.

15. **Last year's Defense Authorization bill contained a provision requiring the Department to remove regulatory impediments to the acquisition of commercial and off-the-shelf products. What are your views of this provision? Do you believe that similar measures are necessary, or would be helpful, for civilian agency acquisition?**

I believe the provision is useful in that it focuses the Department's efforts on identifying and eliminating clauses that serve as impediments to the acquisition of commercial items. It also requires that staff be trained in how to acquire commercial items. I believe that these types of measures would be useful on a government-wide basis. I understand that legislation has been introduced to accomplish this, and I would support such legislation. However, I believe that the commercial products proposal that I have described earlier is also important to achieving substantial progress in the commercial products area.

16. **Many commercial products are purchased under the "Multiple Award Schedules" maintained by the General Services Administration. Do you see any problems with the way the Multiple Award Schedules work? Do you have any suggestions for improving the operation of the**

Multiple Award Schedules?

I believe that the schedules provide a useful approach for agencies to acquire commercial products and I support their continued use. A continuing problem with the schedules of which I am aware is the very detailed and burdensome information requirements demanded of firms that want to be included on the schedule. We have been looking at approaches that might reduce the paperwork required of vendors by inserting more competition into the purchase process. However, I do not have a firm proposal for dealing with this problem.

17. Many statutory requirements governing procurements contain exemptions for small dollar purchases. However, there is no uniform dollar threshold for the applicability of such requirements. Some statutorily mandated contract requirements apply to all contracts and subcontracts, regardless of dollar amount, while others have thresholds as low as $2,500 or $10,000. Do you believe that it would be helpful to set a uniform level for all small purchase exemptions?

I believe that, as a minimum, it would be useful to establish a uniform dollar threshold for various statutory provisions at the small purchase threshold of $25,000.

18. Section 8141 of the Defense Appropriations Act for Fiscal Year 1989 required the Office of Federal Procurement Policy to address the issue of consultant conflicts of interest by issuing a policy and (within 180 days thereafter) government-wide regulations. OFPP issued a Policy Letter on consultant conflicts of interest on December 15, 1989. What steps are you taking to ensure that this Policy Letter is implemented -- as required in the statute -- through government-wide regulations?

We issued the policy letter in December 1989 and I have requested that the regulatory councils develop government-wide regulations to implement it. We will be closely monitoring their efforts to see that the job is done.

19. Besides the Policy Letter and subsequent regulations on conflicts of interest with consulting services, what other actions do you plan on taking in regard to the government's use of consultants?

We have been working with the Committee, the GAO and

the agencies to develop a revised definition of consultant services to be included in OMB Circular Number A-120 on Contracted Advisory and Assistance Services. I believe the new definition is necessary to avoid the problems we are having today on identifying such services on a uniform basis and determining how much money is being spent on them. As a part of this effort, we are also looking at the question of what constitutes those types of "inherently governmental" services that should not be done on contract.

20. What is your rationale for instituting a review of Circular A-120? What are the specific issues you are seeking to address with any proposed changes?

    a) Will you consider and/or recommend eliminating certain services from the definition?

    b) Will you incorporate specific guidance to assist agencies in determining what is covered by A-76 and A-120?

    As mentioned above, I believe that the definition currently found in Circular A-120 is too broad and ambiguous, and as a result there is no uniform treatment of this area across the government. We have not yet decided on an approach for addressing the problem or whether certain services would be eliminated from coverage. However, the new policy letter on consultant conflicts of interest provides that certain "routine" legal and engineering and technical and other services not be subject to the same kinds of intensive management as other services. We also plan to clarify the relationship between Circulars A-120 and A-76.

21. What actions do you think OFPP should take when an agency is found to have improperly contracted out a particular function?

    I believe that we should raise that issue at the highest levels of the agency and seek to have the action overturned.

22. OMB Circular A-131 requires all federal agencies to establish and improve their use of value engineering programs. Two years after this Circular was issued, its implementation by federal agencies is till spotty at best.

    Do you agree that value engineering can be a source of significant savings in federal procurement? What

additional steps do you plan to take to ensure that federal agencies comply with the requirements of Circular A-131?

We are just now completing our annual report on how well the agencies have done in implementing value engineering techniques. I believe that program offers great promise to the government and I have been encouraging agencies to make full use of it. I have been meeting with agencies that have not done well on this program to encourage greater participation and I believe that this process is having some success. If confirmed as Administrator, I would plan to continue to press the agencies to follow through on this program.

VI. RELATIONS WITH CONGRESS

1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if confirmed?

   I do.

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if confirmed?

   I do.

QUESTIONS OR REQUESTS FOR INFORMATION
POSED BY CHAIRMAN JOHN GLENN

Question. I understand that a few months ago a "study" was conducted by the so-called Defense Policy Advisory Committee on Trade (DPACT) entitled "Examples and Case Studies of the Effect of Inefficient and Costly Acquisition Laws/Regulations on Defense Contractors". I am told that Secretary Cheney attended a meeting of this committee, and that this report was prepared to address certain concerns that Secretary Cheney raised during the meeting.

The study concluded, among other things, that the procurement integrity law was wasting money and stifling the U.S. Defense industry. According to a letter I have received from Representative Jack Brooks, apparently much of this was prepared by a limited number of Defense contractors themselves, acting under anonymity, some of which may be under investigation for procurement fraud.

What are your thoughts on this study? How would you characterize its findings, and what significance should be given to it in the overall development of procurement integrity policy?

Response: I was initially aware of the effort only through an article in a trade publication. The group which prepared the paper provides advice to the Defense Department on trade and business matters. I have now received and reviewed a copy of the document, "Examples and Case Studies of the Effect of Inefficient and Costly Acquisition Laws/Regulations on Defense Contractors." It is dated October 9, 1989. The document appears to be a compilation of long-standing industry concerns with regard to various aspects of the procurement process. Only two pages of the fourteen deal with the Procurement Integrity legislation.

I think it fair to say that the document represents not so much a "study," that is, a careful analysis or examination of a question, as a series of impressions and concerns, based on anecdotal data. It certainly in no way represents a review of all of the facets of the legislation, which as you know, deals with gratuities, employment discussions, revolving door provisions and the handling of procurement sensitive information. Moreover, it does not address the broader question of the need for the legislation or the concerns that led to its enactment.

I have received many comments on the Procurement Integrity legislation from various firms, industry groups and associations. I have also worked with the Counsel to this Committee and with the National Contract Management Association to try to provide advice to industry and government officials on how to carry out the law. I believe the Procurement Integrity legislation was carefully crafted and was aimed at serious contracting concerns. However, we now have a wealth of information from many sources as well as a number of months experience of operating under the law on which to base judgments as to whether changes are needed.

As I mentioned at my confirmation hearing, an interagency group has been meeting regularly to review the procurement integrity issue and is considering possible recommendations for change. We are proceeding on the assumption that, as with any product and notwithstanding their intrinsic merits, the statutory requirements relating to procurement integrity, as well as the implementing regulations, can be improved.

Although we have had several meetings, the aforementioned document has not been discussed. Consequently, I believe that its findings have had little, if any, significance to this interagency group's efforts. Although we are not yet ready to submit any legislative proposal, I hope to meet with staff of this and other interested Committees soon to discuss our thoughts on these important issues.

QUESTIONS OR REQUESTS FOR INFORMATION
POSED BY SENATOR CARL LEVIN

Question 1. Please provide a list of agencies that have reported no Value Engineering savings.

Response: The attached "Value Engineering Report" identifies the agencies and departments that have reported to OMB under Circular No. A-131 and lists their respective savings for Fiscal Years 1988 and 89. Of the major agencies and departments, four failed to report savings in FY 1989: Commerce, Housing and Urban Development, Labor and Treasury.

As I stated during my confirmation hearing, I have met with officials of each of these four departments to encourage their development of appropriate value engineering programs. Officials of the Department of Commerce, as a result of these meetings, have advised that they expect to implement value engineering reviews in several of their major systems acquisitions during FY 1990.

It has been more difficult, however, to identify value engineering opportunities in the other departments. Value engineering seems to be most applicable to major production and construction contracts and these departments have few contracts of this type. My plan is to have a further round of meetings with officials in each of the departments that have not reported savings and to continue to work to achieve effective implementation of the Circular.

Question 2. Please identify any new Federally Funded Research and Development Centers (FFRDCs) that have been established during the past five years.

Response: According to information provided by the National Science Foundation, of the 39 existing FFRDCs, seven were formally established during the past five years. They consist of:

A. Logistics Management Institute
Bethesda, MD
(Sponsor: Department of Defense)

B. National Defense Research Institute (RAND)
Santa Monica, CA
(Sponsor: Department of Defense)

C. Arroyo Center (RAND)

Santa Monica, CA
(Sponsor: Department of Defense)

D. Software Engineering Institute
Pittsburgh, PA
(Sponsor: Department of Defense)

E. Nuclear Waste Regulatory Analysis
San Antonio, TX
(Sponsor: Nuclear Regulatory Commission)

F. Continuous Electron Beam Accelerator Facility
Newport News, VA
(Sponsor: Department of Energy)

G. Inhalation Toxicology Research Institute
Albuquerque, NM
(Sponsor: Department of Energy)

Three of these FFRDCs (Logistics Management Institute and the two RAND Divisions) were already providing research services to Defense prior to their formal designation as FFRDCs.

OMB has also begun to explore alternative approaches for establishing a Center of Information Technology Management. One approach under consideration is to establish an FFRDC. A notice to this effect was published in the Federal Register on May 12, 1989. This effort is in the preliminary concept exploration stage, however, and no decisions have been made made as to whether or how such a Center could best be established and operated.

Question 3. What is the current status of personnel staffing at the Federal Procurement Data Center (FPDC) in relation to previous staffing levels?

Answer: On April 6, 1980, the Federal Procurement Data Center was transferred from Department of Defense to the General Services Administration. Thirteen FTEs, were transferred (along with funding of $281,494) to cover the FPDC's operating requirements and costs (excluding contract support costs) through September 30, 1980. GSA was authorized to use contractor support to keep the government staff to a minimum level. Over the last four years, the authorized staffing level has been 10-12 FTEs, and the funding has ranged from $1.6 million in FY 86 to $2.9 million in FY 1989.

Currently, the Center has a FY 90 authorization of $2.1 million (including costs for contractor support) with a FTE level of 10. As of February 1990, there are 10 full time, staffed positions at the Center, and contractor support is used for computer time-sharing, systems and programming, and

contractor identification services.

Question 4. Please provide a brief description of what is happening with the FPDC.

Response: In an effort to keep within the authorized buuget level, various cost saving alternatives have been explored for operating the Center. An agreement has been reached with the Defense Logistics Agency wherein computer time-sharing and systems and programming services for the FPDS can be provided at substantially less cost than they are currently being obtained from the private sector. For example, during FY 89, GSA spent approximately $1.3 million on these services. DLA, which has the same data base structure as the FPDS, can provide these technical support services at approximately $400,000 per year. The transition of these services to DLA is expected to be completed by July 1, 1990. GSA will nevertheless retain policy and budget responsibilities for the FPDC.

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Value Engineering Report
Comparative Analysis of Savings
Fiscal Year 88 and Fiscal Year 89

Department	FY 88 Savings	FY 89 Savings	Difference FY 88 & 89 Savings
Agriculture	$ 0	$ 5,114,590	$ 5,114,590
Arms Control & Disarmament	*	0	--
Commerce	2,460	0	-2,460
Commodity Futures Trading	*	0	--
Commission on Civil Rights	*	0	--
Energy	23,323,729	59,400,739	36,077,010
Federal Emer. Management Agency	*	0	0
Air Force	658,417,188	488,643,661	-169,773,527
Army	830,260,609	412,807,627	-417,452,982
Army (Corps of Engineers (Civil Works Program)	*	[66,985,000]	
DLA	108,550,000	123,320,000	14,770,000
Navy	845,928,000	423,100,000	-422,828,000

Department	FY 88 Savings	FY 89 Savings	Difference FY 88 & 89 Savings
GSA	684,189	59,259,622	58,575,433
HHS	11,226	20,650	9,424
HUD	--		
Interior	12,183,100	2,293,232	-9,889,868
Justice	0	314,255	314,255
Labor	0	0	0
National Archives	--	0	N/A
National Science Foundation	*	0	0
OPM	*	0	0
Railroad Retirement Board	0	0	0
NASA	0	826,000	826,000
Occupational Safety & Health Review Commission	*	0	0
Panama Canal Commission	*	0	--
State	4,100,000	4,087,542	-12,458
Transportation**	5,457,378	11,992,320	6,534,942

Department	FY 88 Savings	FY 89 Savings	Difference FY 88 & 89 Savings
Treasury	0	0	--
Consumer Product Safety Commission	0	0	0
Merit Systems Protection Board	0	0	0
Veterans Administration	9,549,952	8,625,988	-923,964
Total	$2,498,467,831	$1,599,806,226	-$898,661,605

* No report submitted in 1988.
[$] Included in Army savings above.
** Transportation reported additional VE savings of $42,473,848 achieved by state and local governments through grants and Federally-assisted programs.

QUESTIONS OR REQUESTS FOR INFORMATION
POSED BY SENATOR JAMES SASSER

Question 1. One of the criticisms levied against the Office of Federal Procurement Policy is that it has never had a role reviewing the largest Federal procurement activity -- that is, defense procurement. Yet, you come from OMB's National Security Division where you played an important role monitoring the build-up of the Defense budget during the Reagan Administration.

Given your background, do you believe that OFPP should play a larger role in reviewing Defense procurement? If not, why not? If so, how do you plan to enlarge OFPP's role in reviewing Defense procurement?

Response: If by a "larger role", you are suggesting that OFPP should review specific Defense programs to determine what type of weapons systems should be procured, I do not believe that is an appropriate role for the Office. But if you are referring to how Defense acquires items -- the manner in which a program need, once identified, is to be met through the acquisition of goods and services -- then I agree that OFPP is, and should be, a key player in establishing and maintaining the fundamental, generic rules by which those decisions are made -- for Defense as well as for the civilian agencies.

OFPP was established by the Congress to serve as the preeminent procurement policy authority within the Executive Branch. Its focus is -- and should continue to be, in my view-- on the policy and regulatory framework within which all departments and agencies conduct their procurement programs. It should not dictate -- program by program -- what should be purchased by an Executive department or agency. Indeed, the Congress specifically restricted OFPP's authority in this regard by prohibiting the Office from (1) interfering with agencies' determinations regarding their need for, or use of, specific property and services, and from (2) interfering with specific agency actions in the award or administration of contracts.

However, our Office has been involved in a whole series of key procurement issues affecting all agencies, including policies on procurement integrity, lobbying, small business goals, the role of consultants and many other matters. We are expected to take a leadership role on these issues and we have done so. If confirmed as Administrator, I would certainly plan to continue this approach.

Question 2. Throughout the Reagan years, under OMB Circular A-76, the Administration vigorously pushed the notion of contracting out functions previously done by Federal agency

personnel. Indeed, there was a built-in assumption that private firms could do these things more economically or even better. In recent years, this assumption has been challenged. Lengthy, costly A-76 studies have cost more than any possible savings. Further, some functions being contracted out have been judged by GAO's general counsel to be "inherently governmental" and therefore should not be contracted out.

What initiatives should OFPP take to assure that: (a) contracting out only occurs when true savings will occur, and (b) "inherently governmental" functions do not end up in the hands of private firms?

Response: The underlying concept of the A-76 program has been to enhance governmental productivity through competition. This competition within the Government has both improved the quality of service and achieved $843 million dollars in cost savings since 1981.

We recognize, however, that the program has not been consistently and properly implemented throughout the Federal Government. OMB is now engaged in some key initiatives to improve the process, including the following:

- o The President's Council for Management Improvement (PCMI), which is composed of the Assistant Secretaries for Management of all the major agencies, has been commissioned to review the A-76 program and recommend specific ways to improve the process. The review will be completed in the fall of 1990 and will examine such issues as definition of an inherently governmental function, scope of the commercial activities inventory, and an assessment of the actual savings.

- o OMB personnel are meeting with the Assistant Secretaries for Management (or the equivalent) of each Cabinet Department and the privatization official for each agency to discuss the program and such concerns as the magnitude of the inventory and the calculation of savings.

- o OFPP is developing a revision to OMB Circular No. A-120 relating to contracted advisory and assistance services to tighten the definition of these services and also to provide further guidance on the question of which services should be considered "inherently governmental."

Questin 3 (a). Under 31 USC 1114, the Administration is

supposed to provide detailed information on consulting services proposed by each Executive Branch Department or Agency. To your knowledge, did OMB review the budget requests for each agency with an eye to the use of consultants? What role did OFPP play in this area?

Response: OFPP prepared OMB Bulletin 89-20, Preparation and Submission of Budget Estimates on Consulting Services, for the Director of OMB's signature. This bulletin was sent to the heads of executive departments and establishments on September 18, 1989. It requested that the agencies provide data on consulting services to OMB both during the budget process and at the time the budget was to be submitted to Congress.

Most of the agency financial and budgeting systems do not keep the data on consultants as a separate element in their data base, but rely instead on their procurement systems to produce the information. To obtain the data, some agencies had to resort to field inquiries, which were both time consuming and costly. Therefore the review process this year had mixed results.

We are now reviewing all of the agency submissions to Congress to see that they are in full compliance with the law and that they provide meaningful data on consultant expenditures. As you may know, we have been working closely with Senator Pryor's staff to try to improve the information available to the government regarding consultants.

Question 3(b): How widespread is the use of consultants? Which agencies make the biggest use of them, and in what categories?

Response: Use of consulting services varies widely from agency to agency, and from program to program. Based on data provided by the agencies for FY 90, the following agencies had the largest absolute dollar values of consulting service use.

Agency	Dollars (In millions)
Defense	$1539
Health & Human Services	86
Housing & Urban Development	65
Agriculture	47
Education	42
Energy	36
EPA	34
Labor	27
Interior	26
Treasury	23
Justice	15
Transportation	14
State	10
Veterans Affairs	10
Commerce	10

NASA	4
AID	4
SBA	2
OPM	1

Consulting services data, broken down by category of service, are not yet available. When the agencies' submissions, are all in, we will tabulate the results by category and provide copies to you and the Committee.

Question 3(c). What are the areas of management and oversight that OFPP believes should be taken to tighten up control over consultant use and to make it more beneficial?

Response: In my view, the first requirement is to agree on an approach for identifying consultant services. As you know, 31 U.S.C. 1114 refers to consulting services. We have used that term somewhat interchangeably with advisory and assistance services in OMB Circular A-120. As you have noted, there is a great deal of confusion and debate over the current definition in A-120. To that end, we are working with the General Accounting Office and selected Federal agencies to determine the best means for identifying consultant services of the type most susceptible to abuse. A more workable and understandable definition of consultant services will be very helpful in arriving at a better estimate of useage.

I believe there is some confusion between concern over the size of the consultant workforce vis-a-vis improper conduct by consultants. Our new conflict of interest policy letter (OFPP Policy Letter 89-1) speaks to the issue of improper conduct and should give the government more tools to determine the propriety of consultants performing certain activities.

Rather than size of the consultant workforce being an issue, I think we should focus on how that workforce is used, i.e. consultants should not be used for "inherently governmental" work. To that end, I am asking the Inspectors General of several major agencies to undertake a review of how agencies are addressing that issue.

Question 4: Does OFPP review IG reports? Does OFPP play a role in reviewing agency compliance with IG recommendations? If not, why not? If so, would you provide a summary -- agency by agency -- of how well each comply with their respective IG reports?

Answer: OFPP reviews and relies heavily on both Inspector General and General Accounting Office audit reports. The reports are used to help determine the need for policy, to shape the development of specific policies, and to ascertain the effectiveness of policies that have been issued. One of the

first steps taken by OFPP prior to starting a potential policy development effort is to gather and review pertinent audit reports.

OFPP's role in reviewing compliance with IG recommendations has varied over the years. This year, as a result of Director Darman's specific concern about management integrity and proper management controls, we participated directly with other OMB elements in the review of the various agencies' and departments' annual reports to the President and Congress required by the Federal Managers Financial Integrity Act (FMFIA) (P.L. 97-255). These reports list unresolved audit recommendations and reflect any major vulnerabilities and weaknesses.

In prior years, our review has been less formal and focused primarily on selected issues that were current at the time. Overall policies on audit follow-up and on internal control systems (which include audit resolution standards) are set forth in OMB Circulars A-50 and A-123.

In addition to the FMFIA reports, an accounting of each agency's and department's unresolved IG audit recommendations is contained in their respective Inspector General's Semiannual Reports to the Congress. The Inspector General Act of 1978 (P.L. 95-452) requires each IG to identify in semiannual reports to Congress all significant unresolved recommendations. That Act also requires the head of each department and agency to report semiannually to Congress on unresolved audit recommendations. The latest reports, which we periodically consult, cover the April 1, 1989 to September 30, 1989 period and were submitted to Congress last fall.

QUESTIONS OR REQUESTS FOR INFORMATION
POSED BY SENATOR DAVID PRYOR

Question 1. How will the Federal Procurement Data Center (FPDC) be able to implement the reforms proposed in the June 1989 study, and maintain its current operations in light of the proposed funding level for FY 91? Do you anticipate making any changes in FPDC operations as a result of the FY 91 budget submission?

Response: It is anticipated that the Federal Procurement Data Center will only be unable to begin to implement the reforms proposed in our June 1989 study within the FY 91 proposed funding level. While I fully realize the importance of these initiatives, I believe it is essential first to return the Center to financial stability.

As a result of the FY 90 budget constraints, the Center has been implementing various cost saving measures to reduce operational costs. For example, the FPDS Standard Report will be printed annually and will be available at no charge only to Congress and the agencies. (In the past, the report was available to all customers free of charge.) Customers, other than Congress, requesting special reports will be charged the full cost of producing special reports in accordance with relevant OMB Circulars.

An agreement has been reached with the Defense Logistics Agency wherein computer time-sharing and systems and programming support for the FPDS will be provided at substantially less cost than these services can be obtained from the private sector. These changes should allow the Center to operate within the proposed FY 91 funding level.

Question 2. I understand there is a proposal to allow the FPDC use of the Defense Logistics Agency computer system. In October of 1979, Congress moved the FPDC from the Defense Department to the General Services Administration (GSA). One of the reasons for this change was to ensure the independence of the data system. Was any consideration given to this earlier decision?

Response: An agreement has been reached wherein DLA would provide to GSA, on a cost reimbursable basis, computer time-sharing and systems and programming support services for the FPDS. These are precisely the same services that GSA previously acquired from the private sector by contract. Thus, GSA will retain its statutory responsibility to maintain and operate the FPDS. This agreement was designed to preserve the independence of the FPDS, in light of the Congressional concerns that had previously prompted moving the FPDS to GSA.

Question 3. Given the state-of-the-art of ADP technology, could

the FPDC fulfill its mission with a mini-computer system, thus keeping the data-gathering and data-processing of the Government's procurements in-house?

Response: In our view, using a mini-computer system to support the FPDS is not the best alternative in the short run. Using DLA's computer services will eliminate most of the cost of ADP support without the costs and delays of converting the database from Model 204 to a mini-computer system.

In the long run, however, an in-house mini-computer system may be a more attractive option since it may be less expensive than obtaining these services on a time-sharing basis. Another alternative may be for the FPDC to gather and edit the data, sell it to commercial database services, and then buy access to those databases. Under this approach, competition would force commercial database operators to keep their service quality high and their prices low by keeping up with the state-of-the-art. Also, because there are many non-government users of the data, the system overhead is less per user. At least two firms currently buy and resell the FPDS in this way.

We will continue to work with the GSA to identify and explore these and other alternatives, and to solve the operational problems that have developed at the FPDC.

Question 4. If the FPDC is undergoing transitory changes, what plans exist to provide data to Congress, the private sector, and other interested parties during this phase?

Response: While this transition is underway, there will be a delay in processing FY 90 data. Quarterly FY 90 data will not be available to FPDS customers. FY 90 year-end data should be available on schedule, in early 1991. Data users will continue to be able to obtain FPDS data for prior fiscal years.

QUESTIONS OR REQUESTS FOR INFORMATION
POSED BY SENATOR WILLIAM V. ROTH, JR.

Question. National Science Foundation data for the Department of Defense's (DoD) applied research obligations, and the Defense Contract Audit Agency's (DCAA) report on DOD's independent research and analysis/bid and proposal reimbursements document that DOD competitively awards only 6% of its total applied research funds. This suggests that military users and taxpayers are not benefited by the price-reducing, quality-improving motivations of competition at the time key design decisions are being made. Under these circumstances, key design decisions may be made in the designer's interest -- which may not be in the user's or taxpayer's interest.

I would appreciate your thoughts on this matter and your suggestions for how additional competition might be achieved in awarding applied research funds.

Response: During the past ten years, much emphasis has been placed on increasing competition in Federal procurement. As a result of that emphasis, the percentage of Federal procurement dollars competitively awarded has increased from approximately 41% in 1983 to over 60% in 1989. While we do not have trend data for dollars competitively awarded for applied research during the same period, we believe the current rate -- based upon data from the Federal Procurement Data System -- is approximately 21%, as opposed to the 6% rate cited in the two reports you referenced. We have not yet seen those reports, however, and I would prefer to withhold comment on their findings pending a careful review of them.

Regardless of the current rate of competition in the applied research area, I believe that we need to continue to work to make sure that it is as high as practicable. Competition can help to assure the best return on the government's investment. Indeed, there are several initiatives underway, including a Defense Science Board effort to find ways of strengthening the industrial base and, thus, increasing competition in this area. I will be alert to other opportunities as well, such as focusing greater attention on the Small Business Innovative Research program.